

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1497

Introduced by Assembly Member Montanez

February 21, 2003

An act to amend Section 44004 of, and to add Sections 21084.5 and 43501.5 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1497, as amended, Montanez. Solid waste facilities: permits.

(1) The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated solid waste management program. Existing law prohibits the operation of a solid waste facility without a solid waste facilities permit and requires the operator of a solid waste landfill to submit to the board and the enforcement agency a plan for the closure and postclosure maintenance of the solid waste landfill and evidence of financial ability to provide for those costs. Existing law prohibits the operator of a solid waste facility from making any significant change in the design or operation of the solid waste facility

not authorized by the existing permit, unless the change is approved by the enforcement agency, pursuant to a specified procedure.

This bill would provide that ~~any~~ a significant change in the design or operation of a solid waste facility is a project that may have a significant effect on the environment for purposes of CEQA. The bill would ~~prohibit~~ make a statement of legislative intent that the approval of an environmental impact report or negative declaration for ~~any~~ a project involving a significant change in the design or operation of a solid waste facility *should not be approved* unless the environmental impact report or negative declaration includes a review of environmental justice issues and considers cumulative impacts. The bill would make conforming changes in the solid waste permitting provisions.

The bill would additionally prohibit an operator of a solid waste facility from making ~~any~~ a significant change unless the operator provides ~~adequate~~ notice to residents and businesses located in the surrounding community.

The bill would require ~~any~~ a person applying for a solid waste facilities permit to include, in the closure and postclosure plan, provisions for the re-employment and retraining of that solid waste facility's contract employees, and provisions to ensure adequate resources for taking these actions.

The bill would impose a state-mandated local program by imposing new duties upon enforcement agencies with regard to solid waste facilities permits, thereby imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21084.5 is added to the Public
- 2 Resources Code, to read:
- 3 21084.5. (a) Notwithstanding Section 21084, ~~any~~ a
- 4 significant change in the design or operation of a solid waste



1 facility that is subject to Section 44004 is a project that may have
2 a significant effect on the environment.

3 (b) ~~No~~ *It is the intent of the Legislature that no* environmental
4 impact report or negative declaration ~~shall~~ *should* be approved for
5 a project involving a significant change in the design or operation
6 of a solid waste facility unless the environmental impact report or
7 negative declaration includes a review of environmental justice
8 issues and considers cumulative impacts.

9 (c) For purposes of this section “environmental justice” has
10 the same meaning as defined in subdivision (c) of Section
11 65040.12 of the Government Code.

12 SEC. 2. Section 43501.5 is added to the Public Resources
13 Code, to read:

14 43501.5. In addition to the requirements of this article, a
15 person applying for a solid waste facilities permit ~~for~~ shall include,
16 in the closure and postclosure plan, provisions for both of the
17 following:

18 (a) Provisions for the re-employment and retraining of that
19 solid waste facility’s contract employees, including, but not
20 limited to, truck drivers and haulers.

21 (b) Provisions to ensure that the amounts that the owner or
22 operator will deposit in the trust fund or equivalent financial
23 arrangement acceptable to the board will ensure adequate
24 resources for taking the actions specified in subdivision (a).

25 ~~SEC. 3. Section 44004 of the Public Resources Code is~~
26 ~~amended to read:~~

27 ~~44004. (a) No operator of a solid waste facility shall make~~
28 ~~any significant change in the design or operation of the solid waste~~
29 ~~facility not authorized by the existing permit, unless the change is~~
30 ~~approved by the enforcement agency, the change conforms with~~
31 ~~this division and all regulations adopted pursuant to this division,~~
32 ~~the terms and conditions of the solid waste facilities permit are~~
33 ~~revised to reflect the change, and the operator has provided the~~
34 ~~notice to the community specified in paragraph (3) of subdivision~~
35 ~~(e).~~

36 ~~(b) If the operator wishes to change the design or operation of~~
37 ~~the solid waste facility in a manner that is not authorized by the~~
38 ~~existing permit, the operator shall file an application for revision~~
39 ~~of the existing solid waste facilities permit with the enforcement~~
40 ~~agency. The application shall be filed at least 150 days in advance~~

1 of the date when the proposed modification is to take place unless
2 the 150-day time period is waived by the enforcement agency.

3 (e) The enforcement agency shall review the application to
4 determine all of the following:

5 (1) Whether the change conforms with this division and all
6 regulations adopted pursuant to this division.

7 (2) Whether the operator has complied with Division 13
8 (commencing with Section 21000).

9 (3) Whether the operator of the solid waste facility has
10 provided adequate notice to residents and businesses located in the
11 surrounding community.

12 (d) Within 30 days from the date of the receipt of the
13 application for a revised permit, the enforcement agency shall
14 inform the operator, and if the enforcement agency is a local
15 enforcement agency, also inform the board, of its determination to
16 do any of the following:

17 (1) Allow the change without a revision to the permit.

18 (2) Disallow the change because it does not conform with the
19 requirements of this division or the regulations adopted pursuant
20 to this division.

21 (3) Require a revision of the solid waste facilities permit to
22 allow the change.

23 (4) Require review under Division 13 (commencing with
24 Section 21000) before a decision is made.

25 (e) The operator has 30 days within which to appeal the
26 decision of the enforcement agency to the hearing panel, as
27 authorized pursuant to Article 2 (commencing with Section
28 44500) of Chapter 4.

29 (f) Under circumstances which present an immediate danger to
30 the public health and safety or to the environment, as determined
31 by the enforcement agency, the 150-day filing period may be
32 waived.

33 (g) (1) A permit revision is not required for the temporary
34 suspension of activities at a solid waste facility if the suspension
35 meets either of the following criteria:

36 (A) The suspension is for the maintenance or minor
37 modifications to a solid waste unit or to solid waste management
38 equipment.

39 (B) The suspension is for temporarily ceasing the receipt of
40 solid waste at a solid waste management facility and the owner or

operator is in compliance with all other applicable terms and conditions of the solid waste facilities permit and minimum standards adopted by the board.

(2) Any owner or operator of a solid waste facility who temporarily suspends operations shall remain subject to the closure and postclosure maintenance requirements of this division and to any other requirement imposed by federal law pertaining to the operation of a solid waste facility.

(3) The enforcement agency may impose any reasonable conditions relating to the maintenance of the solid waste facility, environmental monitoring, and periodic reporting during the period of temporary suspension. The board may also impose any reasonable conditions determined to be necessary to ensure compliance with applicable state standards.

SEC. 3. Section 44004 of the Public Resources Code is amended to read:

44004. (a) ~~No~~ An operator of a solid waste facility ~~shall~~ *may* not make ~~any~~ a significant change in the design or operation of the solid waste facility *that is* not authorized by the existing permit, unless the change is approved by the enforcement agency, ~~and the change~~ conforms with this division and all regulations adopted pursuant to this division, ~~and~~ the terms and conditions of the solid waste facilities permit are revised to reflect the change, *and the operator has provided notice to the community as specified in paragraph (3) of subdivision (c).*

(b) If the operator wishes to change the design or operation of the solid waste facility in a manner that is not authorized by the existing permit, the operator shall file an application for revision of the existing solid waste facilities permit with the enforcement agency. The application shall be filed at least 150 days in advance of the date when the proposed modification is to take place unless the 150-day time period is waived by the enforcement agency.

(c) The enforcement agency shall review the application to determine all of the following:

(1) Whether the change conforms with this division and all regulations adopted pursuant to this division.

(2) Whether the ~~change requires review pursuant to operator~~ *has complied with Division 13 (commencing with Section 21000).*

1 (3) *Whether the operator of the solid waste facility has*
2 *provided notice to residents and businesses located in the*
3 *surrounding community.*

4 (d) Within 30 days from the date of the receipt of the
5 application for a revised permit, the enforcement agency shall
6 inform the operator, and if the enforcement agency is a local
7 enforcement agency, also inform the board, of its determination to
8 do any of the following:

9 (1) Allow the change without a revision to the permit.

10 (2) Disallow the change because it does not conform with the
11 requirements of this division or the regulations adopted pursuant
12 to this division.

13 (3) Require a revision of the solid waste facilities permit to
14 allow the change.

15 (4) Require review under Division 13 (commencing with
16 Section 21000) before a decision is made.

17 (e) The operator has 30 days within which to appeal the
18 decision of the enforcement agency to the hearing panel, as
19 authorized pursuant to Article 2 (commencing with Section
20 44500) of Chapter 4.

21 (f) Under circumstances ~~which~~ *that* present an immediate
22 danger to the public health and safety or to the environment, as
23 determined by the enforcement agency, the ~~120-day~~ *150-day* filing
24 period may be waived.

25 (g) (1) A permit revision is not required for the temporary
26 suspension of activities at a solid waste facility if the suspension
27 meets either of the following criteria:

28 (A) The suspension is for the maintenance or minor
29 modifications to a solid waste unit or to solid waste management
30 equipment.

31 (B) The suspension is for temporarily ceasing the receipt of
32 solid waste at a solid waste management facility and the owner or
33 operator is in compliance with all other applicable terms and
34 conditions of the solid waste facilities permit and minimum
35 standards adopted by the board.

36 (2) ~~Any~~ *An* owner or operator of a solid waste facility who
37 temporarily suspends operations shall remain subject to the
38 closure and postclosure maintenance requirements of this division
39 and to ~~any all other requirement~~ *requirements* imposed by federal
40 law pertaining to the operation of a solid waste facility.

1 (3) The enforcement agency may impose any reasonable
2 conditions relating to the maintenance of the solid waste facility,
3 environmental monitoring, and periodic reporting during the
4 period of temporary suspension. The board may also impose any
5 reasonable conditions determined to be necessary to ensure
6 compliance with applicable state standards.

7 SEC. 4. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 a local agency or school district has the authority to levy service
10 charges, fees, or assessments sufficient to pay for the program or
11 level of service mandated by this act, within the meaning of
12 Section 17556 of the Government Code.

